UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,576	11/24/2003	Hyuncheol Park	Q76060	1229

23373	7590	10/19/2006

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER
CHANNAVAJJALA, SRIRAMA T

ART UNIT	PAPER NUMBER
2166	

DATE MAILED: 10/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Since this application has been granted special status under the accelerated examination program --

NO extensions of time under 37 CFR 1.136(a) will be permitted and a SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE:

ONE MONTH OR THIRTY (30) DAYS, WHICHEVER IS LONGER,
FROM THE MAILING DATE OF THIS COMMUNICATION – if this is a non-final action or a *Quayle* action.
(Examiner: For **FINAL** actions, please use PTOL-326.)

The objective of the accelerated examination program is to complete the examination of an application within twelve months from the filing date of the application. Any reply must be filed electronically via EFS-Web so that the papers will be expeditiously processed and considered. If the reply is not filed electronically via EFS-Web, the final disposition of the application may occur later than twelve months from the filing of the application.

Status

1) ☒ Responsive to communication(s) filed on <u>03 October 2006</u>.

2) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

3) ☒ Claim(s) <u>1-15</u> is/are pending in the application.

    3a) Of the above claim(s) _____ is/are withdrawn from consideration.

4) ☐ Claim(s) _____ is/are allowed.

5) ☒ Claim(s) <u>1-15</u> is/are rejected.

6) ☐ Claim(s) _____ is/are objected to.

7) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

8) ☐ The specification is objected to by the Examiner.

9) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

10) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

11) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

       1. ☐ Certified copies of the priority documents have been received.

       2. ☐ Certified copies of the priority documents have been received in Application No. _____.

       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response under 37 C.F.R. 1.111

1.   Claims 1-15 are presented for examination.

2.   Examiner acknowledges applicant's response filed on 10/3/2006.

Drawings

3.   The Drawings filed on 11/24/2003 are <u>acceptable</u> for examination purpose

Information Disclosure Statement

4.   The information disclosure statement filed on 8/12/2004, 6/30/2005 is in

compliance with the provisions of 37 CFR 1.97, and has been considered and a copy is

enclosed with this Office Action.

Priority

5.   Acknowledgment is made of applicant's claim for foreign priority based on

Korean Patent Application No. 10-2003-0007725 filed on *7 February 2003* under 35

U.S.C. 119(a)-(d), the certified copy has been filed with the Application No. 10/718,576,

filed on November 24,2003.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6.   ***Claims 1-15 are rejected under 35 U.S.C. 101 because invention is directed to non-statutory subject matter.***

      As set forth in MPEP 2106(II)A:

Identify and understand Any Practical Application Asserted for the Invention. The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result." State Street, 149 F.3d at 1373, 47USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to

inventions that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than an idea or concept, or is simply a starting point for future investigation or research (Brenner v. Manson, 383 U.S. 519, 528-36, 148 USPQ 689, 693-96); In re Ziegler, 992, F.2d 1197, 1200-03, 26 USPQ2d 1600,

*1603-06 (Fed. Cir. 1993)). Accordingly, a complete disclosure should contain some indication of the **practical application** for the claimed invention, i.e., why the applicant believes the claimed invention is useful.*

      *Apart from the utility requirement of 35 U.S.C. 101, usefulness under the patent eligibility standard requires significant functionality to be present to satisfy the useful result aspect of the practical application requirement. See Arrhythmia, 958 F.2d at 1057, 22 USPQ2d at 1036. Merely claiming nonfunctional descriptive material **stored in a computer-readable medium does***

not make the invention eligible for patenting. For example, a claim directed to a word

processing file stored on a disk may satisfy the utility requirement of 35 U.S.C. 101 since the

information stored may have some "real world" value. However, the mere fact that the claim

may satisfy the utility requirement of 35 U.S.C. 101 does not mean that a useful result is

achieved under the practical application requirement. The claimed invention as a whole must

produce a "useful, concrete and tangible" result to have a practical application.

7.   Regarding claim 1, "a community service providing system for providing

communication services through a wired/wireless network, comprising:

an input section through which one of emotion and condition information of

communication service users is input; and

an emotion/condition analysis module for generating events to provide to the

communication service users by use of said one of the emotion and condition

information of the communication service users, input through the input section".

is directed to "abstract idea" because all of the elements in the claim 1, would

reasonably be interpreted by one of ordinary skill in light of the disclosure as software,

such that the steps in a community service providing communications services through

a network is software, per se , is "non-statutory subject matter" and   *claim 1* does not

have "practical application" because the "final result" by the claimed invention in the

claim 1 elements particularly *"an emotion/condition analysis module for generating*

events to provide to the communication service users by use of said one of the

emotion and condition information of the communication service users, input

through the input section" is not producing "useful, tangible and concrete" and therefore, claim 1, is a non-statutory subject matter.

The claimed invention is subject to the test of State Street, 149 F.3d at 1373-74, 47 USPQ2d at 1601-02. Specifically State Street sets forth that the claimed invention must produce a *"useful, concrete and tangible result."* The **Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility** states in section IV C. 2 b. (2) (on page 21 in the PDF format):

> The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a § 101 judicial exception, in that the process claim must set forth a practical application of that § 101 judicial exception to produce a real-world result. Benson, 409 U.S. at 71-72, 175 USPQ at 676-77 (invention ineligible because had "no substantial practical application.").

Claims 1, have the result of producing "real-world" results related to "an emotion/condition analysis module for generating events to provide to the communication service users by use of said one of the emotion and condition information of the communication service users, input through the input section" however the claim[s] do not specify that the result neither output nor displayed to a user or otherwise used in the real world, but does not output useful, concrete and tangible result. The examiner reviewed the specification page 10-13,15-17 but was unable to find a practical real-world use of the result (an emotion/condition analysis module for generating events to provide to the communication service users by use of said one of

the emotion and condition information of the communication service users, input

through the input section).

If the applicant is able to find one and inserts it into the claims provide the location

the element is found in the specification

The claims 2-7, dependent from claim 1 is also rejected in the above analysis.

8.   Regarding claim 8," *a community service providing method, comprising the steps*

of causing one of emotion and condition information of communication service users to

be input, and determining one of a similarity and difference among the communication

service users by use of said one of the input emotion and condition information, and

generating events in accordance with the determination result" is directed to "abstract

idea" because all of the elements in the claim 8, would reasonably be interpreted by one

of ordinary skill in light of the disclosure as software, such that the steps in a community

service providing merely generating events in accordance with the determination result"

claim 8 does not have "practical application" because the "final result" by the claimed

invention in the claim 8 elements particularly "*generating events in accordance with the*

determination result "is not producing useful, tangible and concrete" and therefore,

claim 8, is a non-statutory subject matter.

The claimed invention is subject to the test of State Street, 149 F.3d at 1373-74, 47

USPQ2d at 1601-02. Specifically State Street sets forth that the claimed invention must produce

a *"useful, concrete and tangible result."* The **Interim Guidelines for Examination of Patent**

Applications for Patent Subject Matter Eligibility states in section IV C. 2 b. (2) (on page 21

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> materials to a different state or thing. However, the tangible requirement does
> require that the claim must recite more than a § 101 judicial exception, in that the
> process claim must set forth a practical application of that § 101 judicial
> exception to produce a real-world result. Benson, 409 U.S. at 71-72, 175 USPQ
> at 676-77 (invention ineligible because had "no substantial practical
> application.").
>
> Claims 8, have the result of producing "real-world" results related to

"*generating events in accordance with the determination result,* " however the claim[s]

do not specify that the result neither output nor displayed to a user or otherwise used in

the real world, but does not output useful, concrete and tangible result. The examiner

reviewed the specification page 10-13,15-17 but was unable to find a practical real-

world use of the result (*generating events in accordance with the determination result*).

If the applicant is able to find one and inserts it into the claims provide the location

the element is found in the specification

. The claims 9-15, dependent from claim 8 is also rejected in the above analysis.

For "General Analysis for Determining Patent-Eligible Subject Matter", see 101 Interim Guidelines as indicated below:

<<http://www.uspto.gov/web/offices/pac/dapp/ogsheet.html>>

No new matter to be added

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10.   Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by

Mochizuki et al. [hereafter Mochizuki], US Patent No. 6,909,453 filed on June 6, 2002,

filed on Dec 19,2002

11.   As to claim 1, Mochizuki teaches a system which including "a community service

providing system for providing communication services through a wired/wireless

network [Abstract, col 3, line 23-30, fig 1, fig 10Bfig 12A-12B], Mochizuki specifically

teaches virtual television phone communication facilitated by the service provider for

example television or communication providers, wired/wireless network corresponds to

Mochizuki's fig 10B, 12A-12B;

        'an input section through which one of emotion and condition information of

communication service users is input' [col 3, line 45-49, col 4, line 64-65,col 16, line 55-

60, col 17, line 16-19], Mochizuki teaches virtual television phone having various

modules or units that including communication unit, voice/music selection input unit and

voice/music processing and analyzing unit connected to emotion presuming unit

element 10 as detailed in fig 1, further, when user inputting voice/music, the voice/music

converting unit converts the voice based on the sent voice and sends to the voice/music

output unit, and the voice analysis result is sent to the emotion unit as detailed in col 17,

line 16-19;

'an emotion/condition analysis module for generating events to provide to the

communication service users by use of said one of the emotion and condition

information of the communication service users, input through the input section' [col 7,

line 25-34, col 17, line 25-38], Mochizuki specifically directed to relationship between

events and emotions, more specifically, events related to voice analysis sent to the

emotion unit element 10 to determine for the emotion types and level of emotions such

as "normal", "laughing", "angry", "weeping" and "worried" and like as detailed in col 17,

line 25-38, see fig 5A-5B,6A.

12.   As to claim 2, Mochizuki disclosed 'an output section for transmitting one of an

emotion map processed through the emotion/condition analysis module and information

related to the generation of events to the communication service users' [col 9, line 66-

67, col 10, line 1-3, fig 5A-5B].

13.   As to claim 3, Mochizuki disclosed 'the input section maps said one of the

emotion and condition information of the communication service users into an emotion

map' [col 6, line 65-67, col 7, line 1-3, line 25-34], emotion s corresponds to emotion

presuming unit that provides various emotions as detailed in col 6, line 25-34

14.   As to claim 4, Mochizuki disclosed 'wherein the emotion map allows one of a

user's emotion and condition information to be represented as coordinate values based

on predetermined information axes to indicate a predetermined emotion defined by the

communication service users' [col 5, line 30-48, col 13, line 5-14].

15.   As to claim 5, Mochizuki disclosed 'wherein the emotion/ condition analysis

module comprises:

       a coordinate value comparing unit for measuring a proximity degree of the

coordinate values represented on the emotion map, corresponding to said one of the

emotion and condition information of the communication service users input through the

input section' [col 6, line 49-67, col 7, line 1-3];

       'a coordinate value determining unit for determining at least one of a similarity

and a difference between said coordinate values within a predetermined range based

on the proximity degree measured by the coordinate value comparing unit' [col 17, line

25-33];

       'an event generating unit for generating corresponding events in response to a

control signal generated by the coordinate value determining unit' [col 17, line 31-43].

16.   As to claim 6, Mochizuki disclosed 'at least one of the similarity and difference is

determined using one of the proximity degree and relative distance between the

coordinate values measured by the coordinate value comparing unit' col 17, line 10-16][.

17.   As to claim 7, Mochizuki disclosed 'wherein the events are determined according to said at least one of the similarity and the difference represented by the communication service users, and the events are determined based on the coordinate values indicated on the emotion map' [col 18, line 19-34].

18.   As to claim 8, Mochizuki teaches a system which including 'a community service providing method, comprising the steps of causing one of emotion and condition information of communication service users to be input' [col 17, line 25-33, col 18, line 35-50, fig 1], Mochizuki specifically teaches various emotion and conditions that are stored in emotion presuming unit related to user's voice analysis over a period of time as detailed in col 17, line 25-33, further, as noted, voice of the user's is inputted, and voice processing unit determines the emotions based on the condition[s] of the voice as detailed in col 18, line 35-42; 'determining one of a similarity and difference among the communication service users by use of said one of the input emotion and condition information, and generating events in accordance with the determination result' [col 17, line 33-46, col 18, line 51-65]', Mochizuki specifically teaches generating voice analysis in certain period of time and determining the level of emotion and condition information as detailed in col 17, line 33-46.

19.   As to claim 9, Mochizuki disclosed 'transmitting one of information on the input emotion and condition information as predetermined coordinate values and information on generation of the events, to the predetermined communication service users' [col 23, line 38-49, fig 12A-12B]..

20.   As to claim 10, Mochizuki disclosed 'generating the events comprises a step of generating events specified previously in accordance with an attribute of a group to which the communication service users belong' [col 23, line 61-67, col 24, line 1-3]..

21.   As to claim 11, Mochizuki disclosed 'generating the events comprises a step of selecting an event notification method in accordance with neighboring environment information measured by a sensor provided in a terminal of each of the communication service users' [col 23, line 38-42].

22.   As to claim 12, Mochizuki disclosed 'one of the emotion and condition information is information related to coordinates, which move on the emotion map in accordance with a key input by at least one of the communication service users' [col 19, line 23-30, line 41-51].

23.   As to claim 13, Mochizuki disclosed 'one of the emotion and condition information is text information corresponding to at least one type of event required by at least one of the communication service users' [col 17, line 46-61]..

24.   As to claim 14, Mochizuki disclosed 'one of the similarity and difference is

determined using one of a proximity degree and a relative distance for coordinate

values, which are measured based on the coordinate values represented on an emotion

map, corresponding to said one of the input emotion and condition information of the

communication service users' [col 18, line 19-34]

25.   As to claim 15, Mochizuki disclosed 'wherein an emotion map is configured

based on predetermined information axes indicating predetermined emotions defined by

the communication service users, so as to represent one of emotions and conditions as

coordinate values. [col 5, line 30-48, col 13, line 5-14].

Response to Arguments

26.   Applicant's arguments filed on 10/3/2006 with respect to claims 1-15 have been

fully considered and for examiner's response, see discussion below:

a)   At page 2, claim 1, applicant argues that "one exemplary useful, concrete, and

tangible result of the claimed invention is that a specific user an confirm the emotional

condition of other communication server users and can share emotions or conditions

with other users as detailed in para 74 of specification....

        As to the above argument, claim 1 is merely directed to generating events to

provide service use of one of the emotion and condition information without specifying

whether emotion and condition information is "current" or "past", or any specific

condition, in other words, what part of the claim 1 is producing "real-world" result?. and

what is the "practical use" ?, at least applicant fail to provide "final result" by the claimed

invention in the claim 1 elements particularly ""*an emotion/condition analysis module*

for generating events to provide to the communication service users by use of

said one of the emotion and condition information of the communication service

users, input through the input section" where it merely recites without any active,

positive steps limiting "an emotion/condition.........", how this use is actually practiced.

Hence, in connection with the above claim 1, is rejected under 35 U.S.C. 101 because

the claimed recitation without any active, positive steps that produces "real-world" result.

See for example Ex parte Dunki, 153 USPQ 678 (Bd.App. 1967) and Clinical Products,

Ltd. V. Brenner, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1996).

Based on above presented arguments, examiner applies arguments to claim 8 and

depend claims 9-15 .

b)   At page 3, claim 1, applicant argues that "Mochizuki does not disclose or suggest

at least, "an emotion/condition ......to provide to the communication service users by

use of ....in put section".

It is noted that Applicant's remarks, at page 3-6 of the response, are merely

conclusory statements, without any support. Applicant is merely repeating the language

of the claim, without addressing Examiner's particular interpretation of the reference, as

presented in the previous office action, and without specifying how the instant claim[s]

address the issues raised by Examiner.

As to the above argument [b], firstly, Mochizuki is directed to a communication

unit connected to voice/music selection input unit, analyzing unit, emotion presuming

unit for example as detailed in fig 1; secondly, Mochizuki specifically providing

community service system through wired/wireless for example virtual television phone

communication facilitated by the service provider for example as detailed page 10B,

12A-12B; thirdly, Mochizuki specifically suggests events relationship with respect to

emotions, i.e. events related to voice analysis sent to the emotion unit to determine the

emotion type[s], level of emotions for example "normal", "laughing", "angry", "weeping",

and "worried" as detailed in col 17, line 25-28, fig 5A-5B, fig 6A

Examiner applies above discussed arguments to claims 2-7 depend from claim 1.

c)   At page 3, claim 3, applicant argues that "Mochizuki does not disclose or suggest

at least "wherein the input section maps said one of the emotion and condition

information of the communication......

As to the above argument [c], Mochizuki specifically suggests body motion data

of all the frames including pattern data related to the events that produces various

emotions depend on events for example normal state, laughing state, weeping state,

angry state etc, as detailed col 6, line 24-34.

d)   At page 4, claim 5, applicant argues that Mochizuki does not disclose or suggest

at least "measuring a proximity degree of coordinate values represented on an emotion

map

As to the above argument [d], Mochizuki specifically teaches generating facial

expressions, shape of the face with respect to time-series data transforming the

vertexes in each transformation calculating the multiple vertexes and representing the

the coordinate values as detailed in col 6, line 57-65, further, it represented in "emotion

mpa" expression data as detailed in col 7, line 1-3.

e)   At page 4, claim 8, applicant argues that "there is no disclosure or suggestion

that similarities and differences among communication service users are determined".

As to the above argument [e], as best understood by the examiner, Mochizuki

specifically suggests emotion types are being classified, similarly, voice analyzer also

determines various levels of voice intensity levels and calculating the similarities and

differences particularly, level of emotion and condition information of the service users

as detailed in col 17, line 33-46, col 18, line 51-65.

f)   At page 5, claim 13, applicant argues that "Mochizuki does not disclose or

suggest that the emition and condition information is text information corresponding to

at least one type of event required by at least one of the communication service users".

As to the above argument [f], as best understood by the examiner, Mochizuki

specifically suggests word dictionaries are created based on the analysis of the daily

conversation to generate dictionary template, further words are classified into respective

emotion states in the template for matching the analysis results that represents events

as detailed in col 17, line 46-61.

g)   At page 5, claim 15, applicant argues that "Mochizuki does not disclose or

suggest at least wherein a emotion map is configured based on predetermined

information.....coordinate values".

As to the argument [g], as best understood by the examiner, Mochizuki

specifically suggests shape data is presented in a three dimensional space for example

vertex coordinates, normal vector elements at the vertexes as detailed in col 5,

line 30-35, further shape data includes body parts i.e., entire body in the three

dimensional space particularly providing emotions and conditions pattern data as

detailed in col 5, line 30-48, col 13, line 5-14.

Therefore, applicant's remarks are deemed not to be persuasive, and

claims 1-15 stand rejected under 35 Usc 102(e) as being clearly anticipated by

Mochizuki et al.

Conclusion

The prior art made of record

a.   US Patent. No.   6909453

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Srirama Channavajjala whose telephone number is 571-272-4108. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam, Hosain, T, can be reached on (571) 272-3978. The fax phone numbers for the organization where the application or proceeding is assigned is 571-273-8300 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)

sc
Patent Examiner.   SRIRAMA CHANNAVAJJALA
October 16, 2006.   PRIMARY EXAMINER